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# Sentencing: The Probation Officer

James Lowenthal

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Sentencing offenders of the criminal law is a widely diverse and complex problem. Few guidelines are available for those upon whom the task has been thrust. Depending upon the jurisdiction, various parties are responsible for sentence determination: juries, administrative agencies, legislatures, and judges. Most jurisdictions, however, require the judge to make the final determination.<sup>1</sup> To aid in this determination, many jurisdictions, including federal district courts, require or permit judges to consider a presentence investigation report prepared by a professional probation officer. The use of these reports and recommendations are generally limited to felony cases or to specific crimes where probation is available as an alternative to incarceration.

Implementation of the use of presentence reports varies from jurisdiction to jurisdiction, but four methods have generally emerged. Some states, such as California, require reports for certain classes of offenses,<sup>2</sup> others for all felonies or crimes with possible sentences over a specified number of months.<sup>3</sup> Other jurisdictions make the report discretionary with the trial court, as in the federal system.<sup>4</sup> Another method is to make the report discretionary, but preclude the granting of probation if no report is utilized.<sup>5</sup> One state, Utah, does not make use of the report, but uses a sentencing hearing exclusively.<sup>6</sup>

The purpose of this paper is to consider the value of such reports in light of various goals of the criminal sanction, resources available for probation officers in a typical jurisdiction, and alternatives to the presentence report as an aid to sentencing.

## Justification for the Criminal Sanction

Five basic reasons for punishment of anti-social behavior have historically been articulated. Herbert Packer, in *The Limits of the Criminal Sanction*, chose to call them retribution, general deterrence, special

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deterrence or intimidation, incapacitation, and rehabilitation.' Each has its own characteristics; yet only two are compatible with the purpose of the presentence report. This is because the report is purported to inform the court about the individual offender,<sup>7</sup> while, as we shall see, neither retribution nor deterrence focuses upon the offender, but upon the offense committed. It is important to bear in mind, however, that the justifications are not necessarily exclusive and that usually two or more are present in every sentencing determination.

*Retribution* is sometimes referred to as revenge or expiation. The basis of retribution is that man is responsible for his actions and if he has done harm to society, he should "pay" for his sins. Since the offender is to pay for his offense, the type of offense is the key to retribution. Though inability to control actions and conform to societal norms, as in instances of insanity, would be a defense, anyone capable of conforming but who doesn't do so "owes" society something for offending societal norms. Since retribution focuses upon the offense and not the offender, a report on the character and personality of the defendant is irrelevant to the determination of length and type of sentence where retribution is the prime justification for use of the criminal sanction.

*General deterrence* is based upon the theory that punishment for anti-social behavior will prevent others so disposed from similar conduct. This theory assumes men weigh the possible fruits derived from criminal sanction. Simply put, the threat of punishment reinforced by its occasional infliction, causes most to refrain from criminal conduct. To be effective, general deterrence demands rigorous, consistent enforcement.<sup>9</sup> As in retribution, the offense is the key, since focusing upon the offender would not deter others from criminal activity.

Another utilitarian goal for imposition of criminal sanctions is *special deterrence* or *intimidation*. The theory is that one who has had a taste of punishment will be less likely to commit further acts against society. Of course, if the behavior is of a compulsive type, special deterrence will have little effect on offenders. Therefore, consideration of the offender, aided by a presentence report, is relevant to the determination of whether to incarcerate him under this goal.

Yet, as Packer notes<sup>10</sup>, intimidation may be but a part of incapacitation and rehabilitation. Therefore, when considering intimidation, I will view it as one method of furthering the goal of rehabilitation, not as a goal separate in itself.

*Incapacitation* too is oriented to the offender. Such punishment assumes some offenders are likely to commit further crimes. Of course, while incarcerated, their ability to do so is reduced. This reduction is the primary goal in a society interested only in repression of crime. The

probation officer's behavioral study is essential here since only those likely to continue criminal activities need be incarcerated in order to incapacitate them. Problems arise, however, when the question of length of sentence is to be determined. Once the sentencing judge concludes an individual offender is likely to commit further crimes, for what length of time should he be incapacitated? The question is likely to be answered by implementing another of the punishment goals along with incapacitation in order to determine the maximum sentence. Here, the presentence report of the probation officer is relevant, then, only in the consideration of whether to incarcerate or place on probation.<sup>11</sup> Length of sentence has nothing to do with behavior or personality when the goal of punishment is incapacitation alone. However, when incapacitation is coupled with rehabilitation, behavioral studies are relevant to the question of type of incarceration and can aid release authorities in the determination of length of "treatment."

Behavioral and personality studies find their greatest use where *rehabilitation* is the goal of punishment. The nature of the offense is relevant only for what it may tell us about the type of rehabilitation necessary for a particular offender. The system is otherwise purely offender-oriented.<sup>12</sup> This rationale for punishment dictates that each offender be treated as an individual. The more we know about the offender before sentencing, the more individual the sentence may be. The presentence report becomes most important because the length and type of sentence equals the time and method necessary to cause the offender to reform.

The principal argument against rehabilitation is that we as yet don't know how to rehabilitate offenders. We do not know enough about the roots of crime to determine the type of treatment or its length. "Rehabilitation . . . suffers simply from a lack of appropriate means."<sup>14</sup> What we do know, on the other hand, is that an overwhelming number of offenders sent to prison become recidivists, while probationers return to crime far less frequently.<sup>15</sup> It has been theorized that prison life causes many to become hardened to society and that bitterness results in additional anti-social behavior.<sup>16</sup> To recommend an alternative to incarceration, where reasonable, is the primary function of the probation officer; his vehicle for determination and recommendation is the presentence report.<sup>17</sup>

Therefore, the presentence report has value only when the goal of imposing the criminal sanction is either incapacitation or rehabilitation—when the offender, not the offense is of prime concern. We shall consider the methods of implementing rehabilitation or incapacitation by use of the presentence report.

## The Probation Officer

The American Bar Association recommends all criminal courts be supplied with resources and supporting staff to permit a presentence investigation and report in every case.<sup>18</sup> The person assigned the task of preparing the report is usually a probation officer appointed by the court and paid by the state or local jurisdiction. Probation departments are also responsible for supervising offenders on probation and have a division to handle juvenile offenders as well. Some states require the court to consider the presentence report,<sup>19</sup> while others simply permit its consideration.<sup>20</sup> In Indiana, a report is required prior to commitment following every felony conviction.<sup>21</sup> It is also statutorily necessary for the court to consider the report, but only prior to issuance of an "order for commitment." The court is to consider the report only as it may guide in determining the type or length of incarceration. Some Indiana courts, however, consider the report prior to any determination as to type or length of sentence and the reports are used in decisions as to whether probation will be an effective alternative to prison in a specific instance.<sup>23</sup>

To determine whether the presentence investigation report is designed to further the compatible goals of rehabilitation and incapacitation in the criminal sanction, one must examine the requirements of a typical jurisdiction: Indiana. (The report is divided into three sections: (1) legal history, (2) personal and social history, and (3) summary and recommendations.<sup>25</sup>) Legal and social history include official data from police agencies, military authorities, and juvenile court records (if such records have not been purged from the probation department juvenile division) as well as data from the accused, his friends, family, and acquaintances.<sup>26</sup>

These data are then used by the probation officer as a basis for recommendations to the sentencing judge.<sup>27</sup> Although the term incapacitation is not used by the Indiana Probation Department, two considerations are frequently referred to in its manual: (1) protection of society and, (2) rehabilitation of the offender.<sup>28</sup> Since the primary justification for incapacitation is to protect society, it would appear the report is consistent with these two goals of punishment. However, the fact that the manual directs probation officers to prepare their recommendations with a view to incapacitation and rehabilitation does not guarantee that the conclusions will be based upon accurate information or that probation officers are generally capable of drawing the proper conclusions from the data collected. If the recommendations are not based upon accurate information about the offender or the probation officer is not sufficiently expert to utilize the data to reach proper conclusions, there is no way to determine if the recommendations will further either goal of

punishment. It is necessary, therefore, to examine the means of guaranteeing accuracy before examining the ability of probation officers generally.

Since accuracy of the information contained in the first two sections of the report is necessary if legitimate conclusions are to be reached and proper recommendations made, a method of data verification is necessary. Some data can be verified by the probation officer simply by asking the offender if the agency report is correct. This may be very time consuming; time which may be better spent interviewing the offender in an effort to learn his attitudes and feelings about his current situation and his future.<sup>29</sup>

Clearly, the court should be particularly concerned with the accuracy of the report. Not only is fairness to the accused at stake, but the court's own reputation may be damaged by use of inaccurate presentence information.

For the most part, discussion of counsel's role in accuracy determination centers upon disclosure of the investigation report to defense counsel. Generally, the justification for non-disclosure hinges upon the argument that disclosure might dry up the probation officer's sources of information, as private sources desire confidentiality.<sup>38</sup> Though much of the information is from official documents and records and is obtainable by defense attorneys, opinions about the accused from school and juvenile authorities are not public and these could weigh heavily in the sentencing decision as could those of ministers, teachers, and friends. Therefore, besides the defendant's concern for invasions of his privacy, a guarantee of the accuracy of the data upon which such opinions are based may be imperative to him. Nondisclosures of this information to defense counsel may very well preclude this necessary guarantee. In jurisdictions where reports are disclosed to defense counsel, accuracy of data and validity of opinions can be tested before the court prior to sentencing.<sup>39</sup>

Assuming accuracy can be guaranteed as to the factual data in the presentence investigation, the question of the validity of the resulting conclusions and recommendations looms large. To determine whether validity can be anticipated, two questions need be answered: (1) what is expected of probation officers, and (2) are financial and personnel resources adequate to assure the attainment of those expectations. It is necessary for the probation officer to observe and draw conclusions from the offender's "nonverbal communications such as bodily tensions, squirming, flushing, excitability, and dejection."<sup>42</sup> Patterns in the way the offender thinks are important in determining what will be recommended as the proper "treatment" for him. There is little doubt that to

be a competent probation officer, one must have an understanding of sociology, psychology, psychiatry, and criminology.

Obviously the availability of the needed highly qualified personnel and the financial resources to obtain such personnel are of paramount concern. Yet, the maximum annual salary permitted by statute for adult probation officers in Indiana, for example, ranges from \$10,750.00 to \$13,250.00, depending upon the size of the jurisdiction.<sup>46</sup> Often former police officers serve as probation officers. The resulting reports frequently center on circumstances of the offense and, therefore, recommendations are oriented to the offense rather than the offender.<sup>47</sup> This is probably due to training in investigation of crimes, but not in the background of offenders. Unfortunately, the presentence report may appear much like an expanded arrest report. When this is the case, neither the goals of incapacitation nor of rehabilitation are furthered as the report is offense-oriented, not offender-oriented.

Eligibility for probation officers in Indiana, as prescribed by statute,<sup>48</sup> requires appointees be twenty-one years of age, graduates of a four year college or high school graduates with two years experience in "counseling, guidance, teaching, social work or a very "closely related field."<sup>50</sup> There is no requirement that appointees who attended college be especially prepared for probation work, nor do the areas of experience or a "closely related field" guarantee the degree of professional skill necessary. Obviously, so long as properly trained personnel are neither available nor, if available, attracted by adequate compensation, the presentence report will seldom be of the quality necessary to aid the court in determining the best method of sentencing an offender when the goal of punishment is incapacitation or rehabilitation.

## **Alternatives to the Present System**

Let us now examine some existing alternatives to the presentence investigation and report.

### *A. Removal of the Sentencing Decision from the Trial Judge*

Several proposals severely limit the judge's role in sentencing. In California, for example, the California Adult Authority, determines sentences within legislative structures. The court's responsibility is limited to turning the offender over to the Adult Authority when incarceration is determined to be in the best interests of society and the offender. However, the issue of probation remains with the court and the determination of whether to grant probation is aided by the presentence report prepared by a probation officer.<sup>53</sup> The Model Sentencing Act is designed to further the goals of incapacitation and rehabilita-

tion by making probation the rule and incarceration the exception.<sup>54</sup> Though the proposal limits the judge's role, the question of whether probation should be granted or denied in a particular instance remains a question for the trial court. The quality of the presentence report becomes more important when probation is the rule since more offenders are likely to be placed on probation under such a system, calling for detailed presentence information in every case.

In 1971, the Indiana legislature created a facility for diagnosis of offenders similar to the one proposed by the Model Sentencing Act.<sup>55</sup> Again, the court determines if probation or suspension of sentence is to be used. The question remains of whether to grant probation from the trial court to a board or agency with possibly no more expertise than that of probation officers would hardly solve the problem or further the goals of punishment. Frequently, too, the factors affecting the decision are primarily local in nature. Information of an offender's school history, marital relations, and adaptation to community standards can only be gathered from local sources. A local probation officer who has gained the confidence of his sources is more likely to obtain full and accurate data about the offender. Data gathered by a distant agency would have none of these advantages.

### *The English Model*

One alternative to the present system is to upgrade personnel by education and apprenticeship. As in the United States, English judges historically made decisions as to whether an offender should be granted probation without the aid of a background study of the individual.<sup>56</sup> The controlling question was often whether the offender had been previously convicted of criminal activity. If he had, probation was generally denied, the theory being if previous crimes had been committed, the offender should be incarcerated.

In 1925, the appointment of probation officers became statutorily obligatory.<sup>57</sup> Probation officers now work under the control of the Home Secretary supervision of a committee of local magistrates. Costs are shared equally by the central and local governments. Quality personnel are at colleges and universities, and undergo an intensive training program including theoretical and applied social sciences and probation work. The Home Office rigorously enforces requirements for graduation and reappointment periodic refresher courses are required of all probation officers.

Though far from perfect, the English model produces highly-skilled, capable probation officers, able to derive from studies of the behavioral and mental make-up of an offender a recommendation designed to



further the goals of rehabilitation and incapacitation. Yet considering the amount of funds necessary to implement such a program along with the current unwillingness of both state legislators and their constituents, such a needed change is not likely to be forthcoming in many of the states.

### *The Milwaukee Experience: The Postplea of Guilty Hearing*

A more realistic alternative, perhaps, is the postplea of guilty hearing used in Milwaukee.<sup>61</sup> Although the hearing is used primarily to assure that defendants who plead guilty are guilty of the offense charged, it may also serve as a method of gaining presentence information. After hearing the defendant and his attorney, the judge either determines sentence or orders a presentence investigation—generally prepared within two weeks. The report is then discussed by trial judge, probation officer, prosecutor, and defense counsel before sentence is passed. “[T]he circumstances of the offense and the criminal record [of the accused] receive emphasis, while the defendant’s social history receives relatively little attention.”<sup>64</sup>

The judge considers several factors in his decision of whether to order a presentence investigation: (1) whether there is conflicting testimony as to the circumstances of the offense; (2) whether there are questions as to the degree of property loss or personal injury due to the offense; (3) whether the defendant’s social history may be especially important in the determination; (4) whether the defense counsel requests a presentence investigation.<sup>65</sup> Since the hearing is offense rather than offender-oriented however, such a system should be suspect as to the furtherance of the goals of incapacitation and rehabilitation.

### *Sentencing Hearings—An Alternative Proposal*

Some aspects of the postplea of guilty hearing may still be useful as a model for a system that could be implemented with little expenditure of money or time to further the goals of punishment. The Milwaukee experience serves as a model for such a system in the following proposal.

Since money and time resources are not presently available to permit improvement of the current system, a change is warranted if such a change can improve the accuracy of the sentencing determination and further the goals of the criminal law with no additional expenditure of money and little in terms of time. The following, I believe, is such a proposal.

In the proposed system, the probation officer’s report to the sentencing judge should contain information about the offender that the sentencer feels necessary to aid in the determination. However, such information should be limited to areas within the expertise of probation

officers. Psychological diagnosis and conclusions drawn from opinions of school authorities, police, and acquaintances of the accused within the community have been shown to be without the area of expertise we can normally expect from probation officers in the United States. Therefore, the report should be limited to official data about the offender's background. If letters from members of the community acquainted with the offender are to be included in the report, the probation officer should not comment upon them. Nor should he/she make recommendations.

Since the report is to be primarily a cumulation of official data, the embarrassment of sources cannot be said to substantiate a refusal to grant defense counsel access to the report. Even where traditionally confidential information from sources is included, defense counsel should have access to the contents of the investigation report. This, of course, includes juvenile records, historically kept from public view. Disclosure to the public of data in the hearing will be made only if the offender, the person theoretically protected by non-disclosure, so desires.

Of course, solicited opinions of family, friends and acquaintances of the offender should be sought only if the prospective submitter has first been informed these data will be given to the defendant's counsel. Since we would, no doubt, be dealing with hearsay and conclusions, the defense counsel would be given the opportunity to rebut these views with witnesses or opinions.

The result of disclosure, of course, may be that many who might previously have come forward would refuse to do so; but, the value of opinions about the accused in the report is questionable since the primary value of such data in the past has been to aid the probation officer in making recommendations to the court. The question of incarceration or probation is too important to be decided by the consideration of hearsay and inexperienced opinion. If the court decides to incarcerate an offender, the determination should be based on fact, not inexperienced opinions. As in trial, the defense should be given the opportunity to cross-examine, impeach, and rebut any testimony harmful to the accused.

In the proposed system, the prosecutor, too, would have the opportunity to submit a letter, notably in cases of plea negotiation, in which he might recommend leniency or probation. His role at sentencing is similar to his role at trial. If probation becomes the rule and incarceration the exception, then the prosecutor could well advocate incarceration if the situation so merited. In other words, much of the data detrimental to the offender previously in the presentence report could be presented to the court by the prosecutor. To protect the offender from the dangers of hearsay, only testimony admissible at the trial would be

admissible at the hearing. If probation were the rule, then the burden would fall upon the state to make a case for incarceration and only if such a case were made would defense counsel be required to present a case in rebuttal.

Two advantages to such a system are immediately apparent. First, if probation is the rule, prosecutors will be disposed to argue for incarceration only when evidence exists that the offender will be a danger to society and a *prima facie* case for incarceration is present. If the result is that more offenders receive probated sentences, the costs will be greatly reduced since the cost of incarceration far exceeds that of probation. Moreover, if a reduced burden on the criminal courts results, the longrun savings in time and expenditures would be great indeed.

Second, since our concern with the present system centers upon inaccurate data and improperly drawn conclusions, the demands of the rules of evidence would require the exclusion of opinions by lay witnesses<sup>72</sup> and opinions of experts would be limited to their fields of expertise.<sup>73</sup> The result could very well be that prosecutors would present testimony of qualified experts in psychology, criminology, and sociology or be unable to present sufficient evidence to convince the court that incarceration is best in a particular instance.

The defense counsel in the proposed hearing will remain the advocate for the client. Presentation of evidence would be necessary only if the prosecutor made a case for incarceration. When official data in the presentence report tended to sway the court toward incarceration, defense counsel would attempt to rebut such data with testimony by the defendant or other witnesses. While the defendant could be cross-examined by the prosecutor if he chose to testify and his testimony could result in information that may be incriminating, as at trial, the offender could remain silent at sentencing. Rebuttal might take many forms, including expert testimony, limited, of course, by the same rules of evidence that limit the prosecution's case for incarceration.

Discovery would still be the key to rebuttal, but the rules of discovery in Indiana, for example, would permit defense counsel to depose prosecution witnesses.<sup>74</sup> In the federal system, discovery of "results of reports of physical or mental examinations . . . made in connection with the particular case . . . within the possession, custody or control of the government . . ." is permitted under rule 16(a)(2) of the Federal Rules of Criminal Procedure (1968).<sup>75</sup> Examinations of the offender by experts could, therefore, be made available to the defense prior to the hearing enabling preparation of a case in rebuttal. Though criminal discovery is limited when compared with civil discovery, the limits are far less detrimental to the defendant than a secret or inaccurate presentence report. Since the report's official data are to be given to the defense and the

witnesses the prosecution calls are subject to cross-examination, the offender has a much better opportunity to make a case to rebut arguments for incarceration than in the present system.

In the case of indigent offenders, the court could require defense requests for expert evaluations be made prior to the hearings where the state may be required to provide funds for the evaluations. Yet, this should not be a frequent occurrence since many decisions of whether to grant or deny probation are not so complex as one may assume. While the issue of granting or denying probation is extremely important, every sentencing situation does not demand evaluations and recommendations of the type probation officers are often called upon to produce. Where special information is thought beneficial to the determination, the court could order it upon its own motion or that of the prosecutor or defense counsel. Where neither the prosecutor nor defense counsel desire to present evidence, the hearing would be truncated, similar to those now in existence.

The role of the court in the proposed hearing is not unlike that at trial. Where presentence reports are not required prior to granting of probation, as in Indiana and those jurisdictions where reports are ordered at the discretion of the court, there is frequently no need to order one when the decision to grant probation has already been made, due to the prosecutor's recommendation. Where prior offenses may be of concern, the report can be limited to that information, relieving the court of the necessity of reviewing an entire report. As pointed out, in Milwaukee, the report may be limited to the information the court deems relevant to its determinations. The probation-incarceration decision, however, will be based upon information presented by the parties and not upon conclusions drawn by probation officers.

The proposed sentencing hearing would shift the burden of informing the sentencing judge of the offender's personality and behavioral traits to the prosecutor and the defense counsel. I see no reason to believe the court will fail to adequately protect society's interests in such a system. If we are serious about incarcerating only those who are a "threat to society" in that they will probably commit further criminal acts, then we must limit the consideration of data about the offender to dependable sources, affording protections to offenders which are prevalent at trial. Also, if we admit that those who are incarcerated have a higher rate of recidivism than those placed on probation, then we must have means of identifying as accurately as possible those who can possibly rehabilitate themselves and grant them probation. The proposed expanded sentencing hearing will be an improvement over the present system as it will more nearly approach the desired ideal, thus furthering the goals of incapacitation and rehabilitation.

## FOOTNOTES

1. By final determination is meant the length of sentence, both minimum and maximum. In addition, the court is left to determine the offenders who should be placed on probation or whose sentences should be suspended. Early release in the form of parole is left to an administrative agency once incarceration is selected as the proper sanction.
2. See Cal. Penal Code §1203 (1966 Supp.).
3. See Ind. Stat. Ann. §9-2252 (1966 Supp.), Mich. Stat. Ann. §28.1144 (1964) and N.J. Crim. Prac. Rules, Superior and County Courts, Rule 3:7-10(b).
4. Fed. R. Crim. P. 32 (c) (1).
5. See Ohio Rev. Code Ann. §2951.03 (1965) and S. C. Code Ann. §7-319 (1962).
6. Utah Code Ann. §77-35-12-13 (1953).
7. Herbert L. Packer, *The Limits of the Criminal Sanction*, pp. 35-61.
8. "The primary objective of the presentence report is to focus light on the character and personality of the defendant. . . ." Carter and Wilkins, *Probation and Parole: Selected Readings* (1970) at 69.
9. Packer, *supra*, note 7.
10. *Id.*, at 47.
11. Suspension of sentence is frequently another choice available to courts. It is used primarily when it has been determined an offender is not prone to repeat criminal activity and that the restrictions of probation are unnecessary.
12. Packer, *supra*, note 7.
13. *Id.*, at 56.
14. *Id.* Also, *President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections* 28 (1967).
15. Ramsey Clark, *Crime in America*, Simon and Schuster (1970), ch. 13.
16. Carter and Wilkins, *supra*, note 8.
17. ABA Project on Standards for Criminal Justice: Standards Relating to Probation, (1970), §2.
18. Robert O. Dawson, *Sentencing: The Decision as To Type, Length and Conditions of Sentence* (1969), ch. 2.
19. *Id.*
20. Burns Ind. Stat. Ann. §9-2252 requires a presentence report be filed by probation officers and "considered" by the court prior to sentencing those convicted of felonies. The form of the report is left to the state probation director.
21. Two Indiana counties, Monroe and Vanderburgh, were surveyed. A total of nine criminal courts were included, with all judges expressing opinions that the probation departments were typical of those in the rest of the state.
22. Indiana Department of Correction, *supra*, note 24.
23. *Id.*
24. *Id.*, at 22.
25. Dawson, *supra*, note 19, chapter 2.
26. ABA Project on Minimal Standards for Criminal Justice, *Standards Relating to Sentencing Alternatives and Procedures*, pp. 216-17 (Tent. Draft 1967).
27. For a discussion of counsel's role in sentencing and the arguments for and against disclosure or the presentence investigation report see Confidentiality of Presentence Reports, 28 *Albany Law Review* 12 (1964) and *Mempa v. Rhay*, 47 *Texas Law Review* 1, (1968).
28. *Id.*, at 317.
29. Probation departments are also charged with supervision of those offenders placed on probation as well as the implementation and operation of a juvenile probation division, Indiana Department of Correction, *supra*, note 24.
30. *Id.* Calculation of maximum salaries is 50% of the Circuit Court's salary. Salaries for Circuit judges range from \$21,500 to \$16,500, with the first \$17,000 paid by the state and the remainder, if any, paid by the counties. See Burns Ind. Stat. Ann. §9-6920.
31. In the two counties surveyed, judges indicated salaries for probation officers were far below the maximum.
32. Dawson, *supra*, note 19, at 37.
33. Burns Ind. Stat. Ann. §9-2904.
34. Indiana Department of Corrections, *supra*, note 24, at 4.

53. Note, Sentencing Criminals in California, A Study in Haphazard Legislation, 13 *Stanford Law Review* 340.
54. Model Sentencing Act (1953).
55. Burns Ind. Stat. Ann §13-2562.
56. Herschel A. Prins, Training for Probation Work in England and Wales, 28 *Fed. Prob.* 12, (Dec. 1964).
57. *Id.*, at 13.
58. *Id.*, at 16.
59. *Id.*, at 17. For a more detailed discussion of the program in England, see W. G. Minn, Training for the Work of a Probation Officer in England and Wales, *Journal o Criminal Science*, Vol. 5 (1948).
61. Dawson, *supra*, note 19.
64. *Id.*, at 18.
65. *Id.*, at 25.
72. See Rule 701 of the Proposed Rules of Evidence for the District Courts and Magistrates (Revised Draft 1971).
73. *Id.*, Rules 702 and 703.
74. Burns Ind. Stat. Ann §9-1601.
75. Federal Rules of Criminal Procedure for the United States District Courts (July 1, 1968).
76. Note, 112 U. Pa. L. Rev. 865, *supra*, note 71.